

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BELLEDONNA MARIE PLACE
and SARAH NICOLE PLACE, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CHRISTOPHER PLACE,

Respondent-Appellant.

UNPUBLISHED

September 30, 2004

No. 254871

Muskegon Circuit Court

Family Division

LC No. 98-025457-NA

Before: Borrello, P.J., and Murray and Fort Hood, JJ.

MEMORANDUM.

Respondent appeals as of right from an order terminating his parental rights to his two daughters pursuant to his plea of no contest to the petition. We affirm.

At the commencement of the permanent wardship trial, respondent's counsel requested that respondent's daughter be interviewed in chambers while respondent was not present, and indicated that he would decide how to proceed following the interview. Respondent then watched in a separate room as his daughter stated that respondent had sexually abused her. Following the interview, respondent's counsel informed the court that respondent had decided that "it would be in his children's best interests to agree by a no contest plea that his parental rights be terminated." The court proceeded to accept respondent's plea.

Respondent now argues that his right to due process was violated since the trial court "refused to allow" him the opportunity to confront and cross-examine his daughter. This is a gross distortion of what transpired. The trial court never even had the opportunity to "refuse to allow" respondent the opportunity to confront and cross-examine since respondent elected to immediately proceed with a plea rather than a trial following the requested interview.

Respondent states that this issue was not preserved below, but that the Court should nonetheless review it as an unpreserved constitutional claim. Even if defendant's request for the interview outside of his presence could be construed as a denial of the right to confront and cross-examine, respondent's express request was not a mere failure to object. Rather, he "expressly approved" proceeding in that manner. He has therefore waived the issue and

extinguished any error. *People v Tate*, 244 Mich App 553, 558; 624 NW2d 524 (2001), quoting *People v Carter*, 462 Mich 206, 215; 612 NW2d 144 (2000).

Affirmed.

/s/ Stephen L. Borrello
/s/ Christopher M. Murray
/s/ Karen M. Fort Hood